

Doc Code: PET.OP

Document Description: Petition for Review by the Office of Petitions

PTO/SB/84 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

72.049

First named inventor: SteffenApplication No.: 09/889,183Art Unit: 3671Filed: July 10, 2001Examiner: AddieTitle: Soil Compactor with Power Steering

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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OFFICE OF PETITIONS

09/07/2011 JVONG1 00000007 501170 09889183

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NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity-fee \$ 1,620.00 (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in
the form of RCE, Amendment, and Declaration (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTC/SB/64 (07-09)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Timothy E. Newholm/
Signature

September 6, 2011
Date

34,400

Type or Printed name

Registration Number, If applicable

840 North Plankinton Avenue
Address

(414) 225-9755

Milwaukee, WI 53203
Address

Telephone Number

Enclosures:

- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay
- ☒ Other: Request for Continued Examination

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

September 6, 2011
Date

Signature

Nicole Brevitz

Typed or printed name of person signing certificate

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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	Steffen	Art Unit:	3671
Serial No.:	09/889,183	Examiner:	Addie
Filed:	July 10, 2001	Confirmation No.	8529
For:	<i>Soil Compactor with Power Steering</i>	Customer No.:	23598

STATEMENT ESTABLISHING UNINTENTIONAL DELAY

Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

This Statement is submitted under cover of a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), submitted herewith.

A Final Office Action was issued in the above-captioned application on March 21, 2003. Applicant responded to the Final Office Action on June 18, 2003. An Advisory Action was subsequently mailed on July 15, 2003. Applicant unintentionally failed to respond to the Advisory Action, file a Request for Continued Examination (RCE), or file a Notice of Appeal. The application therefore was abandoned no later than September 21, 2003. An RCE and accompanying papers are filed herewith. The entire delay, from that initial date of abandonment until the filing of the attached Petition and the accompanying papers, was unintentional.

Applicant understands that the Office typically requires further information in explanation of the unintentional nature of the delay if the period between the date of abandonment or and the filing of a petition to revive exceeds an unofficial benchmark of 24 months from the date of abandonment. Since the period of abandonment in the present application exceeds that benchmark, Applicant will now provide the following information.

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Statement Establishing Unintentional Delay
U.S. Application Ser. No. 09/889,183; Filed July 10, 2001
Page -2-

As indicated above, the application went abandoned on September 21, 2003 because Applicant unintentionally failed to respond to the Advisory Action mailed July 15, 2003. Applicant's undersigned representative learned of the abandonment on or about October 15, 2003 (before the formal Notice of Abandonment was even mailed) and reported the abandonment to the Applicant via a letter dated October 20, 2003. That letter was accompanied by a draft response and partial a draft of a declaration to be filed under an RCE accompanying a Petition to Revive. The October 20, 2003 letter also requested information required to complete the draft declaration and the response. Applicant responded on December 10, 2003 with some of the information requested in the October 20, 2003 letter. Applicant's representative replied via a letter of December 19, 2003 requesting additional information. Applicant responded via a letter dated December 22, 2003.

The December 23, 2003 letter, which was transmitted by facsimile, was received by Applicant's representative's Firm, but was never matched with the file. Meanwhile, the Firm's docketing system removed this file from its dockets due the receipt of the Notice of Abandonment, dated November 3, 2003. Since it did not hear anything else from its representative on the subject, Applicant erroneously believed that this Petition and the accompanying papers had been filed with the USPTO. For his part, in the absence of receiving any reminders from the Firm's docketing system, Applicant's representative appears to have simply forgotten about this file in the crush of other business.

The errors and resultant unintentionally continued delay in reviving the application went undetected by either Applicant or Applicant's representative until August, 2011. Specifically, on August 16, 2011, Applicant's representative sent Applicant a schedule of all applications and patents assigned to it for the purposes of assigning those applications to a newly-formed subsidiary. In a reply dated August 30, 2011, Applicant noted that the present application was not on that schedule

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Statement Establishing Unintentional Delay
U.S. Application Ser. No. 09/889,183; Filed July 10, 2001
Page -3-

and requested that it be added. Applicant's representative then checked his files and realized that the Petition to Revive had never been filed. Upon being advised of this fact by Applicant's representative, Applicant confirmed that it never intended to abandon the application and that its intention to revive the application still remains in effect.

All of the documents referenced above are available for consideration by the Office upon request. However, since some of these documents contain proprietary information and/or information unrelated to this application, the Office is respectfully requested to rely upon Applicant's duty of candor and good faith and accept the statement of unintentional delay and the accompanying additional explanation at face value. Applicant's representative acknowledges in this regard that, in fulfillment of his obligations under 37 CFR § 10.18, he has inquired into the underlying facts and circumstances and that he can attest to the veracity of the statements contained herein

The Office is entitled to contact the undersigned with any questions or requests for additional information or documentation

Respectfully submitted,



Timothy E. Newholm
Registration No. 34,400

Dated: September 6, 2011

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Doc code: RCEX

Doc description: Request for Continued Examination (RCE)

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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REQUEST FOR CONTINUED EXAMINATION(RCE) TRANSMITTAL (Submitted Only via EFS-Web)							
Application Number	09/889,183	Filing Date	2001-07-10	Docket Number (if applicable)	72,049	Art Unit	3871
First Named Inventor	Steffen			Examiner Name	Addie		
This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV							
SUBMISSION REQUIRED UNDER 37 CFR 1.114							
Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).							
<input type="checkbox"/> Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.							
<input type="checkbox"/> Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____							
<input type="checkbox"/> Other _____							
<input checked="" type="checkbox"/> Enclosed							
<input checked="" type="checkbox"/> Amendment/Reply							
<input type="checkbox"/> Information Disclosure Statement (IDS)							
<input checked="" type="checkbox"/> Affidavit(s)/Declaration(s)							
<input checked="" type="checkbox"/> Other <u>Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)</u>							
MISCELLANEOUS							
<input type="checkbox"/> Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)							
<input type="checkbox"/> Other _____							
FEES							
<input checked="" type="checkbox"/> The RCE fee under 37 CFR 1.17(c) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No. <u>501170</u>							
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED							
<input checked="" type="checkbox"/> Patent Practitioner Signature							
<input type="checkbox"/> Applicant Signature							

EFS - Web 2.1.15

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460.

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